

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56926; File No. SR-OPRA-2007-05)

December 7, 2007

Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information to Adopt New Form of Rider to OPRA's Vendor Agreement for Use by Television Companies that Wish to Disseminate OPRA Data

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on December 6, 2007, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("OPRA Plan").<sup>3</sup> The proposed OPRA Plan amendment would adopt a new form of Television Dissemination Rider to OPRA's Vendor Agreement for use by television companies that wish to disseminate current OPRA Data via a passive scrolling or ticker television display. OPRA's Fee Schedule would be modified to incorporate the fee that OPRA would charge for the dissemination of OPRA Data in the manner discussed below. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at <http://www.opradata.com>.

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The six participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, LLC, the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.

## I. Description and Purpose of the Amendment

OPRA proposes to amend its national market system plan by adopting a new form of Rider to its Vendor Agreement for use by television companies that wish to disseminate current OPRA Data from OPRA's Basic Service via a passive scrolling or ticker television display. The OPRA Fee Schedule would be modified to incorporate the fee that OPRA would charge for the dissemination of OPRA Data in the manner discussed below.<sup>4</sup>

A company that disseminates current OPRA Data to third parties is a "Vendor" for OPRA's purposes, and is therefore required to sign OPRA's Vendor Agreement. As a general matter, OPRA's Vendor Agreement states that any person that receives current OPRA Data from a Vendor is a "Subscriber" and requires the Vendor to cause each of its Subscribers to agree to a Subscriber Agreement, either with the Vendor for the benefit of OPRA, or directly with OPRA. The new form of Rider states that this requirement does not apply to persons that receive OPRA Data in the form of a passive scrolling or ticker television display.

The Vendor Agreement also requires that the Vendor report certain information to OPRA to enable OPRA to verify the fees that the Vendor is obligated to pay OPRA. The new form of Rider to OPRA's Vendor Agreement states that the reporting requirements in the Vendor Agreement will not apply to television dissemination of OPRA Data and sets out requirements that are intended to elicit only the information that OPRA needs to verify the fees paid by a television company for television dissemination.

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<sup>4</sup> OPRA has filed two other filings that will affect its Fee Schedule upon or following their effectiveness: SR-OPRA-2007-03 (eliminating the "FCO Service" column on the Fee Schedule when all currently outstanding physical delivery FCOs are eliminated by expiration or by closing transaction, which could be as late as March 14, 2008); and SR-OPRA-2007-04 (amending the Fee Schedule to specify Professional Subscriber Device-Based Fees commencing as of January 1 of 2008, 2009 and 2010). The changes proposed in those filings do not affect the changes proposed to the Fee Schedule in this filing.

The OPRA Data feed includes, in addition to options last sale and quotation data, the values of various indexes for which OPRA or one of the OPRA participant exchanges has permission to disseminate from the index owners together with related options market data. Some owners of the indexes that OPRA disseminates may not wish to have OPRA grant television companies the right to disseminate their indexes separate from the dissemination of related options market data. To accommodate this possibility, the Rider includes language to give OPRA the ability to grant permission to Vendor television companies to display index values separately from the dissemination of related options market data, and to revoke that permission. OPRA will treat all television companies that sign Riders identically with respect to permission to display index values. The Rider provides that, if OPRA revokes permission to display particular index values separately from the dissemination of related options market data, and as a consequence the television company Vendor no longer wishes to display OPRA Data values and pay fees for doing so, the television company Vendor may terminate the Rider and its Vendor Agreement, or only the Rider, effective as of the date that the index values cease to be available to the television company Vendor.<sup>5</sup>

Section 2 of the Rider requires a television company Vendor to display a legend on its television display at least three times a day. The form of the legend is the same as the legend required by the Consolidated Tape Association (“CTA”) for its counterpart Network A service,

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<sup>5</sup> Any Vendor has the right under paragraph 1(c) of the Rider to terminate the Rider, and under paragraph 19(d) of the OPRA form of Vendor Agreement to terminate the Vendor Agreement, in each case without cause upon thirty days written notice. The termination right described in the text essentially provides comfort to a television company Vendor that, if an index ceases to be available to the Vendor on less than thirty days notice, the Vendor may terminate either the Rider alone or the Rider and Vendor Agreement on the date the index ceases to be available.

and the requirement with respect to the display of the legend is the same as the CTA requirement.<sup>6</sup>

OPRA is proposing to charge a fee for the dissemination via television of current OPRA Data on the basis of the number of “thousands of households reached” by the Vendor television company’s programming.<sup>7</sup> This metric is widely used in the television industry and is used by CTA for its counterpart service.

The text of the proposed amendment to the OPRA Plan and the proposed changes to the OPRA Fee Schedule are available at OPRA, the Commission’s Public Reference Room, and [http://opradata.com/pdf/proposed\\_tv\\_rider.pdf](http://opradata.com/pdf/proposed_tv_rider.pdf).

## II. Implementation of the OPRA Plan Amendment

OPRA will begin to use the proposed form Television Dissemination Rider to its Vendor Agreement upon its approval by the Commission pursuant to Section 11A of the Act<sup>8</sup> and Rule 608(b)(1) thereunder.<sup>9</sup>

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

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<sup>6</sup> See the CTA form of Exhibit C to its form Agreement for Receipt and Use of Consolidated Network A Data and NYSE Market Data for “Cable Broadcasts.”

<sup>7</sup> Specifically, OPRA plans to charge a fee of \$.50 per 1,000 households reached. See proposed “Television Display Fee” on the OPRA Fee Schedule.

<sup>8</sup> 15 U.S.C. 78k-1.

<sup>9</sup> 17 CFR 242.608(b)(1).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-OPRA-2007-05 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OPRA-2007-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information

that you wish to make available publicly. All submissions should refer to File Number SR-OPRA-2007-05 and should be submitted on or before [insert 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(29).